



## UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES  
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: Richard Torczon  
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MAILED

JAN 25 2000

PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Patentees: Chee et al.  
Application No.: 08/327,525  
Filed: 10/21/94, now US Patent No.  
5,795,716, issued 08/18/98  
For: Computer-aided visualization and  
analysis system for sequence evaluation

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 104,552.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

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Senior/Administrative Patent Judge

Richard Torczon  
Administrative Patent Judge  
BOX INTERFERENCE  
WASHINGTON DC 20231  
Tel: 703-308-9797  
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Paper No. 1

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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MARK S. CHEE  
and ROBERT J. LIPSHUTZ  
(5,795,716),

Junior Party,

v.

RADOJE T. DRMANAC  
and RADOMIR B. CRKVENJAKOV  
(09/358,875),

Senior Party.

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Patent Interference No. 104,552

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**NOTICE DECLARING INTERFERENCE**  
(37 CFR § 1.611)

**Part A. Declaration of interference**

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties.

Details of the application, patent, count, and claims designated as corresponding or not corresponding to the count appear in Parts E and F of this NOTICE DECLARING INTERFERENCE.

**Part B. Administrative patent judge assigned  
to administer the interference**

Richard Torczon has been designated to handle the interference. 37 CFR § 1.610.

**Part C. Standing order**

A Trial Section STANDING ORDER accompanies this NOTICE DECLARING INTERFERENCE. The STANDING ORDER applies to this interference.

**Part D. Conference call to set dates**

A telephone conference call to set dates for action in this interference is scheduled for **2 p.m.** (Eastern) on **22 March 2001**. (The call will be initiated from the PTO.)

No later than **two business days** prior to the conference call, each party shall file and serve by facsimile a list of the preliminary motions the party intends to file. See § 17 of the STANDING ORDER.

A copy of a "sample" order setting times for taking action during the preliminary motion phase of the interference accompanies this NOTICE DECLARING INTERFERENCE.

Counsel are encouraged to discuss the order by phone prior to the telephone conference call and to reach an agreement as to dates for taking action. A typical preliminary motion period lasts approximately nine months. Counsel should be prepared to justify any request for a shorter or longer period.

**Part E. The parties to this interference**

Junior Party

Inventors: MARK S. CHEE and  
ROBERT J. LIPSHUTZ, both of Palo Alto, California

Patent: 5,795,716, issued 18 August 1998  
(08/327,525, filed 21 October 1994)

Title: Computer-aided visualization and analysis system for sequence evaluation

Priority benefit: None

Assignee: Affymetrix, Inc.

Attorneys: See last page

Address: See last page

Senior Party

Inventors: RADOJE T. DRMANAC, of Palo Alto, and  
RADOMIR B. CRKVENJAKOV, of Sunnyvale, both of California

Application: 09/358,875, filed 22 July 1999

Title: Computer-aided system for hybridization analysis of nucleic acids

Priority benefit: 09/176,819, filed 22 October 1998 (5,972,619, issued 26 October 1999);  
08/820,534, filed 19 March 1997;  
08/460,853, filed 5 June 1995 (5,695,940, issued 9 December 1997);  
08/203,502, filed 28 February 1994 (5,525,464, issued 11 June 1996);  
08/048,152, filed 15 April 1993; and  
07/576,559, filed 31 August 1990

Assignee: None

Attorneys: See last page

Address: See last page

**Part F. Count and claims of the parties**

Count 1

The system of Chee claim 1 OR of Drmanac claim 14.<sup>1</sup>

The claims of the parties are:

Chee: 1-10

Drmanac: 1-18

The following claims correspond to Count 1:

Chee: 1-10

Drmanac: 1-18

The following claims do not correspond to Count 1:

Chee: None

Drmanac: None

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<sup>1</sup> The claims appear to be identical—

A system that identifies an unknown base in a sample nucleic acid sequence, comprising:  
a processor; and  
a computer readable medium coupled to said processor for storing a computer program comprising:  
computer code that receives a plurality of signals corresponding to probe intensities for a plurality of nucleic acid probes, each probe intensity indicating an extent of hybridization of a nucleic acid probe with at least one nucleic acid sequence including said sample sequence, and each nucleic acid probe differing from each other by at least a single base;  
computer code that performs a comparison of said plurality of probe intensities to each other; and  
computer code that generates a base call identifying said unknown base according to results of said comparison and said sequences of said nucleic acid probes.

**Part G. Heading to be used on papers**

The following heading shall be used on all papers filed in the interference. See § 18 of the STANDING ORDER.

Filed on behalf of: Party \_\_\_\_\_  
By: Name of lead counsel  
Name of backup counsel  
Street address  
City, State, and ZIP Code  
Tel:  
Fax:

Paper No. \_\_\_\_\_<sup>2</sup>

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
(Administrative Patent Judge Richard Torczon)

MARK S. CHEE  
and ROBERT J. LIPSHUTZ  
(5,795,716),

Junior Party,

v.

RADOJE T. DRMANAC  
and RADOMIR B. CRKVENJAKOV  
(09/358,875),

Senior Party.

Patent Interference No. 104,552

TITLE OF PAPER

<sup>2</sup> Leave a blank line for the Board to insert the paper number when the paper is entered into the administrative record.

**Part H. Summary of dates for taking action**

Dates and times for taking action are set in the following sections of the STANDING

**ORDER:**

1.     **§ 7** - date for identifying lead and backup counsel.
2.     **§ 8** - date for identifying any real party in interest.
3.     **§ 9** - date for requesting copies of involved and benefit applications and patents.
4.     **§ 17** - date for filing list of preliminary motions to be filed.
5.     **§ 19** - date for accomplishing certain discovery.
6.     **§ 20** - date for filing clean copy of claims.
7.     **§ 21** - date for filing clean copy of claims in cases with drawings or claims containing a means-plus-function limitation.
8.     **§ 23** - times for filing oppositions to Rule 635 motions and times for filing replies to oppositions.
9.     **§ 33** - time for objecting to admissibility of evidence.
10.    **§ 34** - time for serving supplemental affidavits or evidence to respond to an objection to admissibility of evidence.
11.    **§ 35** - times when cross-examination can take place.
12.    **§ 45** - times for taking action with respect to settlement discussions

**Part I. Order form for requesting file copies**

**FILE COPY REQUEST**  
**Patent Interference No. 104,552**

A copy of Part E of this NOTICE DECLARING INTERFERENCE should be attached to this FILE COPY REQUEST, with a hand-drawn circle around the patents and applications for which a copy of a file wrapper is desired.

To facilitate processing of this FILE COPY REQUEST, the following information should be included:

1. Charge fees to USPTO Deposit Account No. \_\_\_\_\_
2. Complete address, including street, city, state, zip code and telephone number (do not list a Post Office box inasmuch as file copies are sent via commercial overnight courier).

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Telephone, including area code: \_\_\_\_\_



**Part J. Signature and attachments**



RICHARD TORCZON  
Administrative Patent Judge

Enclosures:

Copy of STANDING ORDER

Copy of order used for setting times for taking action in the preliminary motion phase of the interference

Copy of order used for setting times for taking action in the priority phase of the interference

Form PTO 850

Copy of U.S. Patent 5,795,716

Copy of the application claims for 09/358,875

Interference No. 104,552  
Chee v. Drmanac

Paper No. 1  
Page 9

cc (via overnight carrier):

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